

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

DAVID L. PERRY,

Plaintiff,

vs.

CDS SOFTWARE, LLC,

Defendants.

CIVIL ACTION

**Removed from the Superior Court of  
New Jersey Law Division, Special Civil  
Part:**

**Hudson County**

**Docket No. L-001228-17**

**NOTICE OF REMOVAL**

**TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT  
OF NEW JERSEY:**

Defendant CDS Software, LLC ("CDS"), by counsel, pursuant to 28 U.S.C. §§ 1331 and 1446, hereby respectfully requests that this action, filed by Plaintiff David L. Perry ("Plaintiff"), in the Superior Court of New Jersey, Law Division, Hudson County, be transferred to the United States District Court for the District of New Jersey, Newark Vicinage, and represents that:

1. Plaintiff filed a Complaint in the Superior Court of New Jersey, Law Division, Hudson County, on January 19, 2017 at Docket No. HUD-L-1228-17. The Complaint is attached hereto as Exhibit "A."

2. In the Complaint, Plaintiff claims that CDS violated 47 U.S.C. § 227. Ibid.

3. Defendant was served by regular mail with the Summons and Complaint on January 30, 2017, at 2225 First Street, Suite 102, Simi Valley, CA 93065.

**JURISDICTIONAL BASIS FOR REMOVAL**

4. This Court has jurisdiction over this action under 28 U.S.C. §1331 because the action arises under a law of the United States.

5. Plaintiff alleges in his Complaint that Defendant CDS placed a phone call to him on October 14, 2014 with an automated telephone dialing system without Plaintiff's express consent, in violation of the Telephone Consumer Protection Act ("TCPA"), codified at 47 U.S.C. § 227.

6. "Nothing in the text, structure, purpose, or legislative history of the TCPA calls for displacement of the federal-question jurisdiction U.S. district courts ordinarily have under 28 U.S.C. § 1331." Fitzgerald v. Gann Law Books, Inc., 956 F. Supp. 2d 581, 586 (D.N.J. 2013).

### **TIMELINESS OF REMOVAL**

7. Defendant CDS filed this Notice of Removal within thirty days of the date it was served with this removable action, and within the time prescribed for filing this Notice of Removal under 28 U.S.C. § 1446. Defendant was served with Summons and Complaint on January 30, 2017.

### **PROCEDURAL REQUIREMENTS FOR REMOVAL**

8. Plaintiff filed this case in the Superior Court of New Jersey, Law Division, Hudson County and the District Court of New Jersey embraces Hudson County. 28 U.S.C. § 110. Thus, this Court is a proper venue for this action.

9. A copy "of all processes, pleadings, and orders" filed in this action are attached to this Notice of Removal as required by 28 U.S.C. § 1446(a). See Exhibit "A."

10. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal has been served on Plaintiff (appearing *pro se*), as evidenced by the attached Certificate of Service. A true and correct copy of the Notice of Removal with attached exhibits will be filed concurrently with the Clerk of the Superior Court for the State of New Jersey, Law Division, Hudson County.

WHEREFORE, Defendant, CDS Software, LLC, respectfully requests that this action be removed from the Superior Court for the State of New Jersey, Law Division, Hudson County, to this United States District Court for trial and determination and that this Court make an Order of Removal for the said action.

Respectfully submitted,

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Date: February 28, 2017